

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

| | | |
|---------------------------------------|---|---------------------------|
| Willie Earl Robinson, |) | |
| |) | C/A No. 3:12-1146-MBS-SVH |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| John M. McHugh, Secretary, Department |) | ORDER |
| of the Navy, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff Willie Earl Robinson, proceeding pro se, filed a complaint on April 30, 2012, alleging that he has been discriminated against on the basis of his disability. See 42 U.S.C. §§ 12101, et seq. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

This matter is before the court on Plaintiff's Application to Proceed Without Payment of Fees and Affidavit. On June 22, 2012, the Magistrate Judge issued an order directing Plaintiff to clarify his annual income and explain why he could not pay the \$350 filing fee. The Magistrate Judge attached special interrogatories to her order for Plaintiff's use in filing his response. On July 16, 2012, Plaintiff returned the completed special interrogatories and acknowledged that it was not a hardship to pay the \$350 fee, but that he was following instructions from the Equal Employment Opportunity Commission, which indicated that if Plaintiff had no "money for an attorney, [he] may request from the court to appoint me an attorney, and the court will permit me to file without payment of fees, costs, or other security." ECF No. 14.

On August 2, 2012, the Magistrate Judge issued a Report and Recommendation in which she found no evidence that requiring the payment of a filing fee would impose an undue hardship or

effectively block Plaintiff's access to the courts. Accordingly, the Magistrate Judge recommended that Plaintiff's Application be denied. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff's Application to Proceed Without Payment of Fees and Affidavit (ECF No. 2) is **denied**. The case is recommitted to the Magistrate Judge for additional pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
August 31, 2012